



House of Representatives

General Assembly

File No. 681

January Session, 2015

House Bill No. 6926

House of Representatives, April 16, 2015

The Committee on Judiciary reported through REP. TONG of the 147th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

AN ACT CONCERNING LENGTHY SENTENCES FOR CRIMES COMMITTED BY A CHILD OR YOUTH.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 54-125a of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2015*):

3 (a) A person convicted of one or more crimes who is incarcerated on
4 or after October 1, 1990, who received a definite sentence or aggregate
5 sentence of more than two years, and who has been confined under
6 such sentence or sentences for not less than one-half of the aggregate
7 sentence less any risk reduction credit earned under the provisions of
8 section 18-98e, as amended by this act, or one-half of the most recent
9 sentence imposed by the court less any risk reduction credit earned
10 under the provisions of section 18-98e, as amended by this act,
11 whichever is greater, may be allowed to go at large on parole in the
12 discretion of the panel of the Board of Pardons and Paroles for the
13 institution in which the person is confined, if (1) it appears from all
14 available information, including any reports from the Commissioner of

15 Correction that the panel may require, that there is a reasonable
16 probability that such inmate will live and remain at liberty without
17 violating the law, and (2) such release is not incompatible with the
18 welfare of society. At the discretion of the panel, and under the terms
19 and conditions as may be prescribed by the panel including requiring
20 the parolee to submit personal reports, the parolee shall be allowed to
21 return to the parolee's home or to reside in a residential community
22 center, or to go elsewhere. The parolee shall, while on parole, remain
23 under the jurisdiction of the board until the expiration of the
24 maximum term or terms for which the parolee was sentenced less any
25 risk reduction credit earned under the provisions of section 18-98e, as
26 amended by this act. Any parolee released on the condition that the
27 parolee reside in a residential community center may be required to
28 contribute to the cost incidental to such residence. Each order of parole
29 shall fix the limits of the parolee's residence, which may be changed in
30 the discretion of the board and the Commissioner of Correction.
31 Within three weeks after the commitment of each person sentenced to
32 more than two years, the state's attorney for the judicial district shall
33 send to the Board of Pardons and Paroles the record, if any, of such
34 person.

35 (b) (1) No person convicted of any of the following offenses, which
36 was committed on or after July 1, 1981, shall be eligible for parole
37 under subsection (a) of this section: (A) Capital felony, as provided
38 under the provisions of section 53a-54b in effect prior to April 25, 2012,
39 (B) murder with special circumstances, as provided under the
40 provisions of section 53a-54b in effect on or after April 25, 2012, (C)
41 felony murder, as provided in section 53a-54c, (D) arson murder, as
42 provided in section 53a-54d, as amended by this act, (E) murder, as
43 provided in section 53a-54a, as amended by this act, or (F) aggravated
44 sexual assault in the first degree, as provided in section 53a-70a. (2) A
45 person convicted of (A) a violation of section 53a-100aa or 53a-102, or
46 (B) an offense, other than an offense specified in subdivision (1) of this
47 subsection, where the underlying facts and circumstances of the
48 offense involve the use, attempted use or threatened use of physical
49 force against another person shall be ineligible for parole under

50 subsection (a) of this section until such person has served not less than
51 eighty-five per cent of the definite sentence imposed.

52 (c) The Board of Pardons and Paroles shall, not later than July 1,
53 1996, adopt regulations in accordance with chapter 54 to ensure that a
54 person convicted of an offense described in subdivision (2) of
55 subsection (b) of this section is not released on parole until such person
56 has served eighty-five per cent of the definite sentence imposed by the
57 court. Such regulations shall include guidelines and procedures for
58 classifying a person as a violent offender that are not limited to a
59 consideration of the elements of the offense or offenses for which such
60 person was convicted.

61 (d) The Board of Pardons and Paroles may hold a hearing to
62 determine the suitability for parole release of any person whose
63 eligibility for parole release is not subject to the provisions of
64 subsection (b) of this section upon completion by such person of
65 seventy-five per cent of such person's definite or aggregate sentence
66 less any risk reduction credit earned under the provisions of section
67 18-98e, as amended by this act. An employee of the board or, if
68 deemed necessary by the chairperson, a panel of the board shall assess
69 the suitability for parole release of such person based on the following
70 standards: (1) Whether there is reasonable probability that such person
71 will live and remain at liberty without violating the law, and (2)
72 whether the benefits to such person and society that would result from
73 such person's release to community supervision substantially
74 outweigh the benefits to such person and society that would result
75 from such person's continued incarceration. If a hearing is held, and if
76 the board determines that continued confinement is necessary, the
77 board shall articulate for the record the specific reasons why such
78 person and the public would not benefit from such person serving a
79 period of parole supervision while transitioning from incarceration to
80 the community. If a hearing is not held, the board shall document the
81 specific reasons for not holding a hearing and provide such reasons to
82 such person. No person shall be released on parole without receiving a
83 hearing. The decision of the board under this subsection shall not be

84 subject to appeal.

85 (e) The Board of Pardons and Paroles may hold a hearing to
86 determine the suitability for parole release of any person whose
87 eligibility for parole release is subject to the provisions of subdivision
88 (2) of subsection (b) of this section upon completion by such person of
89 eighty-five per cent of such person's definite or aggregate sentence. An
90 employee of the board or, if deemed necessary by the chairperson, a
91 panel of the board shall assess the suitability for parole release of such
92 person based on the following standards: (1) Whether there is a
93 reasonable probability that such person will live and remain at liberty
94 without violating the law, and (2) whether the benefits to such person
95 and society that would result from such person's release to community
96 supervision substantially outweigh the benefits to such person and
97 society that would result from such person's continued incarceration. If
98 a hearing is held, and if the board determines that continued
99 confinement is necessary, the board shall articulate for the record the
100 specific reasons why such person and the public would not benefit
101 from such person serving a period of parole supervision while
102 transitioning from incarceration to the community. If a hearing is not
103 held, the board shall document the specific reasons for not holding a
104 hearing and provide such reasons to such person. No person shall be
105 released on parole without receiving a hearing. The decision of the
106 board under this subsection shall not be subject to appeal.

107 (f) (1) Notwithstanding the provisions of subsections (a) to (e),
108 inclusive, of this section, a person convicted of one or more crimes
109 committed while such person was under eighteen years of age, who is
110 incarcerated on or after October 1, 2015, and who received a definite
111 sentence or total effective sentence of more than ten years for such
112 crime or crimes prior to, on or after October 1, 2015, may be allowed to
113 go at large on parole in the discretion of the panel of the Board of
114 Pardons and Paroles for the institution in which such person is
115 confined, provided (A) if such person is serving a sentence of fifty
116 years or less, such person shall be eligible for parole after serving sixty
117 per cent of the sentence or twelve years, whichever is greater, or (B) if

118 such person is serving a sentence of more than fifty years, such person
119 shall be eligible for parole after serving thirty years. Nothing in this
120 subsection shall limit a person's eligibility for parole release under the
121 provisions of subsections (a) to (e), inclusive, of this section if such
122 person would be eligible for parole release at an earlier date under any
123 of such provisions.

124 (2) The board shall apply the parole eligibility rules of this
125 subsection only with respect to the sentence for a crime or crimes
126 committed while a person was under eighteen years of age. Any
127 portion of a sentence that is based on a crime or crimes committed
128 while a person was eighteen years of age or older shall be subject to
129 the applicable parole eligibility, suitability and release rules set forth in
130 subsection (a) to (e), inclusive, of this section.

131 (3) Whenever a person becomes eligible for parole release pursuant
132 to this subsection, the board shall hold a hearing to determine such
133 person's suitability for parole release. At least twelve months prior to
134 such hearing, the board shall notify the office of Chief Public Defender,
135 the appropriate state's attorney, the Victim Services Unit within the
136 Department of Correction, the Office of the Victim Advocate and the
137 Office of Victim Services within the Judicial Department of such
138 person's eligibility for parole release pursuant to this subsection. The
139 office of Chief Public Defender shall assign counsel for such person
140 pursuant to section 51-296 if such person is indigent. At any hearing to
141 determine such person's suitability for parole release pursuant to this
142 subsection, the board shall permit (A) such person to make a statement
143 on such person's behalf, (B) counsel for such person and the state's
144 attorney to submit reports and other documents, and (C) any victim of
145 the crime or crimes to make a statement pursuant to section 54-126a.
146 The board may request testimony from mental health professionals or
147 other relevant witnesses, and reports from the Commissioner of
148 Correction or other persons, as the board may require. The board shall
149 use validated risk assessment and needs assessment tools and its risk-
150 based structured decision making and release criteria established
151 pursuant to subsection (d) of section 54-124a in making a

152 determination pursuant to this subsection.

153 (4) After such hearing, the board may allow such person to go at
154 large on parole with respect to any portion of a sentence that was
155 based on a crime or crimes committed while such person was under
156 eighteen years of age if the board finds that such parole release would
157 be consistent with the factors set forth in subdivisions (1) to (4),
158 inclusive, of subsection (c) of section 54-300 and if it appears, from all
159 available information, including, but not limited to, any reports from
160 the Commissioner of Correction, that (A) there is a reasonable
161 probability that such person will live and remain at liberty without
162 violating the law, (B) the benefits to such person and society that
163 would result from such person's release to community supervision
164 substantially outweigh the benefits to such person and society that
165 would result from such person's continued incarceration, and (C) such
166 person has demonstrated substantial rehabilitation since the date such
167 crime or crimes were committed considering such person's character,
168 background and history, as demonstrated by factors, including, but
169 not limited to, such person's correctional record, the age and
170 circumstances of such person as of the date of the commission of the
171 crime or crimes, whether such person has demonstrated remorse and
172 increased maturity since the date of the commission of the crime or
173 crimes, such person's contributions to the welfare of other persons
174 through service, such person's efforts to overcome substance abuse,
175 addiction, trauma, lack of education or obstacles that such person may
176 have faced as a child or youth in the adult correctional system, the
177 opportunities for rehabilitation in the adult correctional system and the
178 overall degree of such person's rehabilitation considering the nature
179 and circumstances of the crime or crimes.

180 (5) After such hearing, the board shall articulate for the record its
181 decision and the reasons for its decision. If the board determines that
182 continued confinement is necessary, the board may reassess such
183 person's suitability for a new parole hearing at a later date to be
184 determined at the discretion of the board, but not earlier than two
185 years after the date of its decision.

186 (6) The decision of the board under this subsection shall not be
187 subject to appeal.

188 [(f)] (g) Any person released on parole under this section shall
189 remain in the custody of the Commissioner of Correction and be
190 subject to supervision by personnel of the Department of Correction
191 during such person's period of parole.

192 Sec. 2. (NEW) (*Effective October 1, 2015*) (a) If the case of a child, as
193 defined in section 46b-120 of the general statutes, is transferred to the
194 regular criminal docket of the Superior Court pursuant to section 46b-
195 127 of the general statutes, as amended by this act, and the child is
196 convicted of a class A or B felony pursuant to such transfer, at the time
197 of sentencing, the court shall:

198 (1) Consider, in addition to any other information relevant to
199 sentencing, any scientific and psychological evidence showing the
200 differences between a child's brain development and an adult's brain
201 development, including, but not limited to, evidence showing, as
202 compared to an adult: (A) A child's lack of maturity and
203 underdeveloped sense of responsibility, including evidence showing a
204 child's recklessness, impulsivity and risk-taking tendencies; (B) a
205 child's vulnerability to negative influences and outside pressures from
206 peers or family members, or both; (C) a child's increased capacity for
207 change and rehabilitation; and (D) a child's reduced competency in (i)
208 appreciating the risks and consequences of his or her own actions, (ii)
209 negotiating the complexities of the criminal justice system, and (iii)
210 assisting in his or her own defense; and

211 (2) Consider, if the court proposes to sentence the child to a lengthy
212 sentence under which it is likely that the child will die while
213 incarcerated, how the scientific and psychological evidence described
214 in subdivision (1) of this subsection counsels against such a sentence.

215 (b) Notwithstanding the provisions of section 54-91a of the general
216 statutes, no presentence investigation or report may be waived with
217 respect to a child convicted of a class A or B felony. Any presentence

218 report prepared with respect to a child convicted of a class A or B
219 felony shall address the factors set forth in subparagraphs (A) to (D),
220 inclusive, of subdivision (1) of subsection (a) of this section.

221 (c) The Court Support Services Division of the Judicial Branch shall
222 compile reference materials relating to adolescent psychological and
223 brain development to assist courts in sentencing children pursuant to
224 this section.

225 Sec. 3. Subsection (c) of section 46b-127 of the general statutes is
226 repealed and the following is substituted in lieu thereof (*Effective*
227 *October 1, 2015*):

228 (c) Upon the effectuation of the transfer, such child shall stand trial
229 and be sentenced, if convicted, as if such child were eighteen years of
230 age, subject to the provisions of section 2 of this act. Such child shall
231 receive credit against any sentence imposed for time served in a
232 juvenile facility prior to the effectuation of the transfer. A child who
233 has been transferred may enter a guilty plea to a lesser offense if the
234 court finds that such plea is made knowingly and voluntarily. Any
235 child transferred to the regular criminal docket who pleads guilty to a
236 lesser offense shall not resume such child's status as a juvenile
237 regarding such offense. If the action is dismissed or nolleed or if such
238 child is found not guilty of the charge for which such child was
239 transferred or of any lesser included offenses, the child shall resume
240 such child's status as a juvenile until such child attains the age of
241 eighteen years.

242 Sec. 4. Subsection (f) of section 46b-133c of the general statutes is
243 repealed and the following is substituted in lieu thereof (*Effective*
244 *October 1, 2015*):

245 (f) Whenever a proceeding has been designated a serious juvenile
246 repeat offender prosecution pursuant to subsection (b) of this section
247 and the child does not waive such child's right to a trial by jury, the
248 court shall transfer the case from the docket for juvenile matters to the
249 regular criminal docket of the Superior Court. Upon transfer, such

250 child shall stand trial and be sentenced, if convicted, as if such child
251 were eighteen years of age, subject to the provisions of section 2 of this
252 act, except that no such child shall be placed in a correctional facility
253 but shall be maintained in a facility for children and youths until such
254 child attains eighteen years of age or until such child is sentenced,
255 whichever occurs first. Such child shall receive credit against any
256 sentence imposed for time served in a juvenile facility prior to the
257 effectuation of the transfer. A child who has been transferred may
258 enter a guilty plea to a lesser offense if the court finds that such plea is
259 made knowingly and voluntarily. Any child transferred to the regular
260 criminal docket who pleads guilty to a lesser offense shall not resume
261 such child's status as a juvenile regarding such offense. If the action is
262 dismissed or nolle or if such child is found not guilty of the charge for
263 which such child was transferred, the child shall resume such child's
264 status as a juvenile until such child attains eighteen years of age.

265 Sec. 5. Subsection (f) of section 46b-133d of the general statutes is
266 repealed and the following is substituted in lieu thereof (*Effective*
267 *October 1, 2015*):

268 (f) When a proceeding has been designated a serious sexual
269 offender prosecution pursuant to subsection (c) of this section and the
270 child does not waive the right to a trial by jury, the court shall transfer
271 the case from the docket for juvenile matters to the regular criminal
272 docket of the Superior Court. Upon transfer, such child shall stand trial
273 and be sentenced, if convicted, as if such child were eighteen years of
274 age, subject to the provisions of section 2 of this act, except that no
275 such child shall be placed in a correctional facility but shall be
276 maintained in a facility for children and youths until such child attains
277 eighteen years of age or until such child is sentenced, whichever occurs
278 first. Such child shall receive credit against any sentence imposed for
279 time served in a juvenile facility prior to the effectuation of the
280 transfer. A child who has been transferred may enter a guilty plea to a
281 lesser offense if the court finds that such plea is made knowingly and
282 voluntarily. Any child transferred to the regular criminal docket who
283 pleads guilty to a lesser offense shall not resume such child's status as

284 a juvenile regarding such offense. If the action is dismissed or nolleed or
285 if such child is found not guilty of the charge for which such child was
286 transferred, the child shall resume such child's status as a juvenile until
287 such child attains eighteen years of age.

288 Sec. 6. Section 53a-46a of the general statutes is repealed and the
289 following is substituted in lieu thereof (*Effective October 1, 2015, and*
290 *applicable to any person convicted prior to, on or after said date*):

291 (a) A person shall be subjected to the penalty of death for a capital
292 felony committed prior to April 25, 2012, under the provisions of
293 section 53a-54b in effect prior to April 25, 2012, only if (1) a hearing is
294 held in accordance with the provisions of this section, and (2) such
295 person was eighteen years of age or older at the time the offense was
296 committed.

297 (b) For the purpose of determining the sentence to be imposed when
298 a defendant is convicted of or pleads guilty to a capital felony, the
299 judge or judges who presided at the trial or before whom the guilty
300 plea was entered shall conduct a separate hearing to determine the
301 existence of any mitigating factor concerning the defendant's character,
302 background and history, or the nature and circumstances of the crime,
303 and any aggravating factor set forth in subsection (i) of this section.
304 Such hearing shall not be held if the state stipulates that none of the
305 aggravating factors set forth in subsection (i) of this section exists or
306 that any factor set forth in subsection (h) of this section exists. Such
307 hearing shall be conducted (1) before the jury [which] that determined
308 the defendant's guilt, or (2) before a jury impaneled for the purpose of
309 such hearing if (A) the defendant was convicted upon a plea of guilty;
310 (B) the defendant was convicted after a trial before three judges as
311 provided in subsection (b) of section 53a-45; or (C) if the jury [which]
312 that determined the defendant's guilt has been discharged by the court
313 for good cause, or (3) before the court, on motion of the defendant and
314 with the approval of the court and the consent of the state.

315 (c) In such hearing the court shall disclose to the defendant or his
316 counsel all material contained in any presentence report [which] that

317 may have been prepared. No presentence information withheld from
318 the defendant shall be considered in determining the existence of any
319 mitigating or aggravating factor. Any information relevant to any
320 mitigating factor may be presented by either the state or the defendant,
321 regardless of its admissibility under the rules governing admission of
322 evidence in trials of criminal matters, but the admissibility of
323 information relevant to any of the aggravating factors set forth in
324 subsection (i) of this section shall be governed by the rules governing
325 the admission of evidence in such trials. The state and the defendant
326 shall be permitted to rebut any information received at the hearing and
327 shall be given fair opportunity to present argument as to the adequacy
328 of the information to establish the existence of any mitigating or
329 aggravating factor. The burden of establishing any of the aggravating
330 factors set forth in subsection (i) of this section shall be on the state.
331 The burden of establishing any mitigating factor shall be on the
332 defendant.

333 (d) In determining whether a mitigating factor exists concerning the
334 defendant's character, background or history, or the nature and
335 circumstances of the crime, pursuant to subsection (b) of this section,
336 the jury or, if there is no jury, the court shall first determine whether a
337 particular factor concerning the defendant's character, background or
338 history, or the nature and circumstances of the crime, has been
339 established by the evidence, and shall determine further whether that
340 factor is mitigating in nature, considering all the facts and
341 circumstances of the case. Mitigating factors are such as do not
342 constitute a defense or excuse for the capital felony of which the
343 defendant has been convicted, but which, in fairness and mercy, may
344 be considered as tending either to extenuate or reduce the degree of his
345 culpability or blame for the offense or to otherwise constitute a basis
346 for a sentence less than death.

347 (e) The jury or, if there is no jury, the court shall return a special
348 verdict setting forth its findings as to the existence of any factor set
349 forth in subsection (h) of this section, the existence of any aggravating
350 factor or factors set forth in subsection (i) of this section and whether

351 any aggravating factor or factors outweigh any mitigating factor or
352 factors found to exist pursuant to subsection (d) of this section.

353 (f) If the jury or, if there is no jury, the court finds that (1) none of
354 the factors set forth in subsection (h) of this section exist, (2) one or
355 more of the aggravating factors set forth in subsection (i) of this section
356 exist and (3) (A) no mitigating factor exists or (B) one or more
357 mitigating factors exist but are outweighed by one or more
358 aggravating factors set forth in subsection (i) of this section, the court
359 shall sentence the defendant to death.

360 (g) If the jury or, if there is no jury, the court finds that (1) any of the
361 factors set forth in subsection (h) of this section exist, or (2) none of the
362 aggravating factors set forth in subsection (i) of this section exists, or
363 (3) one or more of the aggravating factors set forth in subsection (i) of
364 this section exist and one or more mitigating factors exist, but the one
365 or more aggravating factors set forth in subsection (i) of this section do
366 not outweigh the one or more mitigating factors, the court shall impose
367 a sentence of life imprisonment without the possibility of release.

368 (h) The court shall not impose the sentence of death on the
369 defendant if the jury or, if there is no jury, the court finds by a special
370 verdict, as provided in subsection (e) of this section, that at the time of
371 the offense (1) the defendant was [under the age of eighteen years, or
372 (2) the defendant was] a person with intellectual disability, as defined
373 in section 1-1g, or [(3)] (2) the defendant's mental capacity was
374 significantly impaired or the defendant's ability to conform the
375 defendant's conduct to the requirements of law was significantly
376 impaired but not so impaired in either case as to constitute a defense to
377 prosecution, or [(4)] (3) the defendant was criminally liable under
378 sections 53a-8, 53a-9 and 53a-10 for the offense, which was committed
379 by another, but the defendant's participation in such offense was
380 relatively minor, although not so minor as to constitute a defense to
381 prosecution, or [(5)] (4) the defendant could not reasonably have
382 foreseen that the defendant's conduct in the course of commission of
383 the offense of which the defendant was convicted would cause, or

384 would create a grave risk of causing, death to another person.

385 (i) The aggravating factors to be considered shall be limited to the
386 following: (1) The defendant committed the offense during the
387 commission or attempted commission of, or during the immediate
388 flight from the commission or attempted commission of, a felony and
389 the defendant had previously been convicted of the same felony; or (2)
390 the defendant committed the offense after having been convicted of
391 two or more state offenses or two or more federal offenses or of one or
392 more state offenses and one or more federal offenses for each of which
393 a penalty of more than one year imprisonment may be imposed, which
394 offenses were committed on different occasions and which involved
395 the infliction of serious bodily injury upon another person; or (3) the
396 defendant committed the offense and in such commission knowingly
397 created a grave risk of death to another person in addition to the
398 victim of the offense; or (4) the defendant committed the offense in an
399 especially heinous, cruel or depraved manner; or (5) the defendant
400 procured the commission of the offense by payment, or promise of
401 payment, of anything of pecuniary value; or (6) the defendant
402 committed the offense as consideration for the receipt, or in
403 expectation of the receipt, of anything of pecuniary value; or (7) the
404 defendant committed the offense with an assault weapon, as defined
405 in section 53-202a; or (8) the defendant committed the offense set forth
406 in subdivision (1) of section 53a-54b, as amended by this act, to avoid
407 arrest for a criminal act or prevent detection of a criminal act or to
408 hamper or prevent the victim from carrying out any act within the
409 scope of the victim's official duties or to retaliate against the victim for
410 the performance of the victim's official duties.

411 Sec. 7. Section 53a-54b of the general statutes is repealed and the
412 following is substituted in lieu thereof (*Effective October 1, 2015, and*
413 *applicable to any person convicted prior to, on or after said date*):

414 A person is guilty of murder with special circumstances who is
415 convicted of any of the following and was eighteen years of age or
416 older at the time of the offense: (1) Murder of a member of the Division

417 of State Police within the Department of Emergency Services and
418 Public Protection or of any local police department, a chief inspector or
419 inspector in the Division of Criminal Justice, a state marshal who is
420 exercising authority granted under any provision of the general
421 statutes, a judicial marshal in performance of the duties of a judicial
422 marshal, a constable who performs criminal law enforcement duties, a
423 special policeman appointed under section 29-18, a conservation
424 officer or special conservation officer appointed by the Commissioner
425 of Energy and Environmental Protection under the provisions of
426 section 26-5, an employee of the Department of Correction or a person
427 providing services on behalf of said department when such employee
428 or person is acting within the scope of such employee's or person's
429 employment or duties in a correctional institution or facility and the
430 actor is confined in such institution or facility, or any firefighter, while
431 such victim was acting within the scope of such victim's duties; (2)
432 murder committed by a defendant who is hired to commit the same for
433 pecuniary gain or murder committed by one who is hired by the
434 defendant to commit the same for pecuniary gain; (3) murder
435 committed by one who has previously been convicted of intentional
436 murder or of murder committed in the course of commission of a
437 felony; (4) murder committed by one who was, at the time of
438 commission of the murder, under sentence of life imprisonment; (5)
439 murder by a kidnapper of a kidnapped person during the course of the
440 kidnapping or before such person is able to return or be returned to
441 safety; (6) murder committed in the course of the commission of sexual
442 assault in the first degree; (7) murder of two or more persons at the
443 same time or in the course of a single transaction; or (8) murder of a
444 person under sixteen years of age.

445 Sec. 8. Section 53a-54d of the general statutes is repealed and the
446 following is substituted in lieu thereof (*Effective October 1, 2015, and*
447 *applicable to any person convicted prior to, on or after said date*):

448 A person is guilty of murder when, acting either alone or with one
449 or more persons, he commits arson and, in the course of such arson,
450 causes the death of a person. Notwithstanding any other provision of

451 the general statutes, any person convicted of murder under this section
452 who was eighteen years of age or older at the time of the offense shall
453 be punished by life imprisonment and shall not be eligible for parole.

454 Sec. 9. Subsection (c) of section 53a-54a of the general statutes is
455 repealed and the following is substituted in lieu thereof (*Effective*
456 *October 1, 2015, and applicable to any person convicted prior to, on or after*
457 *said date*):

458 (c) Murder is punishable as a class A felony in accordance with
459 subdivision (2) of section 53a-35a unless it is (1) a capital felony
460 committed prior to April 25, 2012, by a person who was eighteen years
461 of age or older at the time of the offense, punishable in accordance
462 with subparagraph (A) of subdivision (1) of section 53a-35a, (2) murder
463 with special circumstances committed on or after April 25, 2012, by a
464 person who was eighteen years of age or older at the time of the
465 offense, punishable as a class A felony in accordance with
466 subparagraph (B) of subdivision (1) of section 53a-35a, or (3) murder
467 under section 53a-54d, as amended by this act, committed by a person
468 who was eighteen years of age or older at the time of the offense.

469 Sec. 10. (NEW) (*Effective October 1, 2015*) (a) For the purposes of this
470 section: (1) "Earliest possible release date" means the date, calculated as
471 of the date of sentencing, on which a defendant who was convicted of
472 a crime that is subject to a term of imprisonment would be eligible to
473 be released from incarceration or eligible for parole release,
474 considering: (A) The term of the sentence; (B) the term of any other
475 sentence that the defendant must serve, either concurrently or
476 consecutively; (C) credit that the defendant has earned before
477 sentencing that may reduce the defendant's period of incarceration,
478 including, but not limited to, any credit for presentence confinement
479 earned pursuant to section 18-98d of the general statutes; and (D) the
480 maximum amount of credit such defendant may be eligible to earn as
481 an inmate, including, but not limited to, risk reduction credit under the
482 provisions of section 18-98e of the general statutes, as amended by this
483 act; (2) "credit" means any time that may be credited to an inmate to

484 reduce such inmate's period of incarceration; and (3) "inmate" means
485 an inmate, as defined in section 18-84 of the general statutes.

486 (b) Whenever a defendant is sentenced to confinement in a
487 correctional institution or facility, the sentencing judge shall indicate
488 the maximum period of incarceration that may apply to the defendant
489 and the earliest possible release date for the defendant under section
490 54-125a of the general statutes, as amended by this act, based on the
491 information available on the date of sentencing. The judge shall
492 indicate whether the defendant may be eligible to earn risk reduction
493 credit pursuant to section 18-98e of the general statutes, as amended by
494 this act, and shall indicate the maximum amount of credit that such
495 defendant may earn under said section, if eligible.

496 Sec. 11. Subsection (d) of section 54-91c of the general statutes is
497 repealed and the following is substituted in lieu thereof (*Effective*
498 *October 1, 2015*):

499 (d) Upon the request of a victim, prior to the acceptance by the court
500 of a plea of a defendant pursuant to a proposed plea agreement, the
501 state's attorney, assistant state's attorney or deputy assistant state's
502 attorney in charge of the case shall provide such victim with the terms
503 of such proposed plea agreement in writing and, if the terms of said
504 plea agreement include a period of confinement, the maximum period
505 of confinement and the earliest possible release date, as defined in
506 section 10 of this act.

507 Sec. 12. Subsection (a) of section 18-98e of the general statutes is
508 repealed and the following is substituted in lieu thereof (*Effective July*
509 *1, 2015, and applicable to eligibility to earn risk reduction credits on or after*
510 *said date*):

511 (a) Notwithstanding any provision of the general statutes, any
512 person sentenced to a term of imprisonment for a crime committed on
513 or after October 1, 1994, and committed to the custody of the
514 Commissioner of Correction on or after said date, except a person
515 sentenced for a violation of section 53a-54a, as amended by this act,

516 53a-54b, as amended by this act, 53a-54c, 53a-54d, as amended by this
 517 act, 53a-55, 53a-55a, 53a-70a or 53a-100aa, may be eligible to earn risk
 518 reduction credit toward a reduction of such person's sentence, in an
 519 amount not to exceed five days per month, at the discretion of the
 520 Commissioner of Correction for conduct as provided in subsection (b)
 521 of this section occurring on or after April 1, 2006.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2015	54-125a
Sec. 2	October 1, 2015	New section
Sec. 3	October 1, 2015	46b-127(c)
Sec. 4	October 1, 2015	46b-133c(f)
Sec. 5	October 1, 2015	46b-133d(f)
Sec. 6	October 1, 2015, and applicable to any person convicted prior to, on or after said date	53a-46a
Sec. 7	October 1, 2015, and applicable to any person convicted prior to, on or after said date	53a-54b
Sec. 8	October 1, 2015, and applicable to any person convicted prior to, on or after said date	53a-54d
Sec. 9	October 1, 2015, and applicable to any person convicted prior to, on or after said date	53a-54a(c)
Sec. 10	October 1, 2015	New section
Sec. 11	October 1, 2015	54-91c(d)
Sec. 12	July 1, 2015, and applicable to eligibility to earn risk reduction credits on or after said date	18-98e(a)

JUD *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 16 \$	FY 17 \$
Correction, Dept.	GF - Cost	See Below	See Below
Correction, Dept.	GF - Potential Savings	See Below	See Below

Note: GF=General Fund

Municipal Impact: None

Explanation

Expanding parole eligibility for inmates convicted for a crime committed when they were under the age of 18 and sentenced to more than 10 years in prison may result in savings to the Department of Correction. To the extent that more inmates are granted parole, the agency will shift costs from incarceration to supervision in the community. On average, it saves approximately \$30,000 per inmate annually to supervise an inmate under parole instead of incarcerating them. There are currently approximately 350 inmates who fit the criteria of this bill.

In addition, the bill requires a parole hearing for inmates who meet the eligibility requirement, and a counsel to be appointed by the Office of the Chief Public Defender for indigent clients. It is anticipated that the Public Defender Services will be able to comply with this provision without additional resources and does not result in a fiscal impact.

This bill requires the court to consider certain factors when sentencing a juvenile and the Judicial Department Court Support Services Division (CSSD) to create reference materials on adolescent

psychology and brain development to assist courts at sentencing. It is anticipated that CSSD can do so with current resources and does not result in a fiscal impact.

Retroactively eliminating life sentences without parole for juveniles for specific offenses are anticipated to result in a minimal savings to the Department of Correction because there are few current inmates to whom the change applies and future offenders will receive shorter sentences.

In addition, the bill requires information regarding length of incarceration to be provided at sentencing to a defendant and the victim's family. It is anticipated that the Judicial Department will achieve this in cooperation with the Department of Correction and, as a result, does not result in a fiscal impact.

Lastly, the bill results in a cost to the Department of Correction by limiting the Risk Reduction Earned Credit to exclude inmates convicted of certain manslaughter offenses. Currently there are approximately 350 inmates incarcerated who meet the criteria under the bill. To the extent that offenders are incarcerated longer under the changes to the risk reduction credit program, potential costs for incarceration will result. On average, it costs the agency \$50,690 (including benefits) to incarcerate an offender.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**HB 6926*****AN ACT CONCERNING LENGTHY SENTENCES FOR CRIMES COMMITTED BY A CHILD OR YOUTH.*****SUMMARY:**

This bill makes a number of changes related to sentencing and parole release of offenders who were under age 18 when they committed the crimes. Among other things, it:

1. retroactively eliminates (a) life sentences for capital felony and arson murder and (b) convictions for murder with special circumstances, for offenders who committed these crimes when they were under age 18;
2. requires criminal courts to consider certain mitigating factors of youth when sentencing someone convicted of a class A or B felony committed when he or she was between ages 14 and 18;
3. establishes alternative parole eligibility rules that can make someone eligible for parole sooner if he or she (a) committed a crime when he or she was under age 18 and (b) was sentenced to more than 10 years in prison; and
4. prohibits a child convicted of a class A or B felony from waiving a presentence investigation or report and requires the investigation report to address the same sentencing factors the bill requires a criminal court to consider. (In practice, defendants can waive these investigations and reports.)

The bill also makes three changes related to sentencing all offenders and earning credits to reduce prison sentences. It:

1. requires a judge sentencing someone to prison to indicate the

maximum period of incarceration, earliest possible parole release date, and maximum number of risk reduction credits he or she may earn;

2. requires prosecutors to include the maximum prison term and earliest possible release date in the information they provide, on request, to victims about a proposed plea agreement;
3. prohibits someone convicted of 1st degree manslaughter or 1st degree manslaughter with a firearm from earning risk reduction credits.

The bill also makes technical and conforming changes (§§ 3-5).

EFFECTIVE DATE: October 1, 2015; however, the provisions regarding capital felony, murder with special circumstances, and arson murder are effective October 1, 2015 and apply regardless of when an offender is or was convicted; and the provision on earning risk reduction credits is effective on July 1, 2015 and applicable to eligibility for the credits on or after that date.

§§ 6-9 — SENTENCES FOR OFFENDERS UNDER AGE 18

Under current law, juveniles can be sentenced to life imprisonment without the possibility of release for committing a capital felony and adults to either death or life imprisonment without possibility of release. By law, capital felony punishes crimes committed before April 25, 2012. The bill prohibits sentencing someone for a capital felony if he or she was under age 18 when the crime was committed and overturns prior sentences of this type.

The bill prohibits convicting someone of murder with special circumstances unless the offender was at least age 18 at the time of the offense. It overturns any prior convictions of this crime for offenders who were under age 18 at the time of the crime. By law, this crime is punishable by life imprisonment without the possibility of release.

The bill lowers the penalty for arson murder when the offender is

under age 18 from life imprisonment, statutorily defined as 60 years without parole, to 25 to 60 years. It applies this change retroactively to decrease the prison sentence of any offender previously convicted of committing this crime when under age 18.

The bill also makes conforming changes.

§ 2 — SENTENCING CONSIDERATIONS

The bill requires a criminal court to consider certain factors when sentencing someone convicted of a class A or B felony committed when he or she was between ages 14 and 18. In addition to other information relevant to sentencing, the bill requires the court to consider scientific and psychological evidence showing the differences between a child's and an adult's brain development, including evidence showing that a child, compared with an adult:

1. lacks maturity and has an underdeveloped sense of responsibility, including evidence of recklessness, impulsivity, and risk-taking tendencies;
2. is vulnerable to negative influences and outside pressures from peers, family members, or both;
3. has an increased capacity for change and rehabilitation; and
4. has reduced competency to appreciate the risks and consequences of actions, negotiate the criminal justice system's complexities, and assist in his or her defense.

If the court proposes a lengthy sentence under which it is likely the child will die in prison, the bill requires the court to consider how evidence of the difference between a child's and an adult's brain development counsels against such a sentence.

The bill requires the Judicial Branch's Court Support Services Division to compile reference material on adolescent psychology and brain development to help courts sentence children.

§ 1 — PAROLE ELIGIBILITY

Under existing law, someone is generally eligible for parole after serving (1) 50% of his or her sentence minus any risk reduction credits earned if convicted of a nonviolent crime and (2) 85% of his or her sentence if convicted of a violent crime, home invasion, or 2nd degree burglary. Someone convicted of the following crimes is ineligible for parole: murder, capital felony, murder with special circumstances, felony murder, arson murder, or 1st degree aggravated sexual assault.

The bill establishes alternative parole eligibility rules that can make someone eligible for parole sooner if he or she (1) commits a crime when he or she is under age 18 and (2) is sentenced to more than 10 years in prison. The eligibility rules do not apply to any portion of a sentence imposed for a crime committed when the person was age 18 or older. Existing parole eligibility rules apply to such a sentence.

The rules apply if they make someone eligible for parole sooner than under existing law, and they also apply to someone convicted of a crime who would otherwise be ineligible for parole. Under these rules, someone sentenced to:

1. up to 50 years in prison is eligible for parole after serving the greater of 12 years or 60% of his or her sentence or
2. more than 50 years in prison is eligible for parole after serving 30 years.

The bill applies to offenders incarcerated on and after October 1, 2015 regardless of when the crime was committed or the offender sentenced.

Required Hearing

The bill requires (1) a parole hearing when someone becomes parole-eligible under the bill's provisions and (2) the board to notify, at least 12 months before the hearing, the Chief Public Defender's Office, appropriate state's attorney, Department of Correction's (DOC) Victim Services Unit, Office of the Victim Advocate, and Judicial Branch's

Office of Victim Services. The Chief Public Defender's Office must provide counsel for an indigent person.

At the hearing, the bill requires the board to allow:

1. the inmate to make a statement;
2. the inmate's counsel and state's attorney to submit reports and documents; and
3. any victim of the person's crime to make a statement, as with other parole hearings.

The board may also request (1) testimony from mental health professionals and relevant witnesses and (2) reports from the DOC or others. The board must use validated risk and needs assessment tools and risk-based structured decision making and release criteria. (Existing law requires the board's chairman to adopt policies on these topics.)

Release Decisions

After the hearing, the bill allows the board to release someone on parole if:

1. the release (a) holds the offender accountable to the community without compromising public safety; (b) reflects the offense's seriousness and makes the sentence proportional to the harm to victims and the community; (c) uses the most appropriate sanctions available, including prison, community punishment, and supervision; (d) could reduce criminal activity, impose just punishment, and provide the offender with meaningful and effective rehabilitation and reintegration; and (e) is fair and promotes respect for the law;
2. it appears from all available information, including DOC reports, that (a) there is a reasonable probability the offender will not violate the law again and (b) the benefits of release to the offender and society substantially outweigh the benefits

from continued confinement; and

3. it appears from all available information, including DOC reports, that the offender is substantially rehabilitated considering his or her character, background, and history, including (a) the offender's prison record, age, and circumstances at the time of committing the crime; (b) whether he or she has shown remorse and increased maturity since committing the crime; (c) his or her contributions to others' welfare through service; (d) his or her efforts to overcome substance abuse, addiction, trauma, lack of education, or obstacles he or she faced as a child or youth in prison; (e) the opportunities for rehabilitation in prison; and (f) the overall degree of his or her rehabilitation considering the nature and circumstances of the crime.

The bill requires the board to articulate reasons for its decision on the record. If the board denies parole, the bill allows the board to reassess the person's suitability for a hearing at a later time determined by the board but no sooner than two years after the board's denial.

The bill specifies that the board's decisions under these provisions are not appealable.

§§ 10 & 11—INFORMATION ON PRISON TERMS AND RELEASE DATES

Judges

The bill requires a judge, when sentencing someone to prison, to indicate:

1. the maximum period of incarceration that may apply and earliest possible parole release date (most inmates sentenced to more than two years in prison are eligible for parole after serving a certain amount of their sentences), based on information available on the sentencing date and
2. whether the defendant meets the eligibility criteria to earn risk

reduction credits (see § 12 below) and, if so, the maximum number of credits he or she may earn.

When determining the possible parole release date, the court must consider the defendant's sentence, any other sentences he or she must serve concurrently or consecutively, and credits he or she may earn to reduce the sentence. Credits include time served in prison while awaiting sentencing and the maximum number of risk reduction credits he or she could earn.

Prosecutors

By law, prosecutors must provide a crime victim, at the victim's request, with a written description of a proposed plea agreement's terms. The bill requires the prosecutor to include in the description any maximum prison term that applies and the defendant's earliest possible parole release date. By law, a victim can make a statement or submit a written one to the court before the court accepts a plea agreement where the defendant pleads to a lesser offense than the original charge.

§ 12—RISK REDUCTION CREDITS

The bill prohibits someone convicted of 1st degree manslaughter or 1st degree manslaughter with a firearm from earning risk reduction credits. By law, inmates convicted of the following crimes cannot earn these credits: murder, murder with special circumstances, felony murder, arson murder, 1st degree aggravated sexual assault, or home invasion.

By law, an eligible inmate can earn up to five days per month to reduce his or her maximum prison sentence at the DOC commissioner's discretion. Inmates convicted of a violent crime or 2nd degree burglary cannot use the credits to become eligible for parole sooner than they otherwise would. Inmates convicted of non-violent crimes have their parole eligibility based on their sentences as reduced by the credits.

BACKGROUND

Related Cases — U.S. Supreme Court

In *Graham v. Florida*, the U.S. Supreme Court ruled that the Eighth Amendment's prohibition against cruel and unusual punishment prohibits states from sentencing defendants under age 18 to life without parole for non-homicide crimes. The Court stated that there must be "some meaningful opportunity" for release based on a defendant's demonstrated maturity and rehabilitation. The Court stated that the Eighth Amendment does not prohibit a juvenile who commits a non-homicide crime from being kept in prison for life, but it prohibits making the judgment "at the outset that those offenders never will be fit to re-enter society" (130 S.Ct. 2011 (2010)).

In *Miller v. Alabama*, the U.S. Supreme Court held that the Eighth Amendment prohibits courts from automatically imposing life without parole sentences on offenders who committed homicides while they were juveniles (under age 18). The Court did not categorically bar life without parole sentences for juveniles but stated that a court must "take into account how children are different, and how those differences counsel against irrevocably sentencing them to a lifetime in prison" (132 S.Ct. 2455 (2012)).

Related Case — Connecticut Supreme Court

In *State v. Riley*, the Connecticut Supreme Court considered how the U.S. Supreme Court's rulings applied to someone convicted of committing homicide and non-homicide crimes while a juvenile. The juvenile received a cumulative 100-year prison sentence. The court ruled that even when a court has discretion in sentencing as it did in this case, *Miller* requires consideration of the juvenile's youth as mitigation before sentencing the juvenile to the functional equivalent of a life sentence without the possibility of release. Because the sentencing court did not consider the factors of youth, the court ordered a new sentencing hearing.

In deference to the legislature and because the new sentence the defendant would receive was uncertain, the court did not consider whether *Graham* would require an opportunity for release when a

juvenile is sentenced to the functional equivalent of life in prison (315 Conn. 637 (2015)).

Cases in Juvenile Court and Superior Court

By law, juvenile courts have jurisdiction to hear criminal cases of offenders under age 18. Depending on the circumstances, offenders alleged to have committed felonies when they were between ages 14 and 18 may be transferred to the Superior Court criminal docket.

Felony Classifications

The law classifies felonies as A, B, C, D, or E and establishes penalties for each classification. There are also unclassified felonies that have different penalties. Table 1 displays the penalties for felony classifications.

Table 1: Penalties for Felony Classifications

<i>Felony</i>	<i>Prison Term</i>	<i>Maximum Fine</i>
Class A felony of murder with special circumstances	Life without the possibility of release	\$20,000
Class A felony of murder	25 to 60 years	\$20,000
Class A felony of aggravated sexual assault of a minor	25 to 50 years	\$20,000
Class A felony	10 to 25 years	\$20,000
Class B felony of 1st degree manslaughter with a firearm	Five to 40 years	\$15,000
Class B felony	One to 20 years	\$15,000
Class C felony	One to 10 years	\$10,000
Class D felony	Up to five years	\$5,000
Class E felony	Up to three years	\$3,500

Capital Felony and Murder with Special Circumstances

A person commits a capital felony, before April 25, 2012, or murder with special circumstances, after that date, if he or she murders:

1. certain officers while performing their duties, such as a police officer, state marshal, special conservation officer, or DOC employee;

2. for pay or hires someone to murder;
3. after a previous conviction for intentional murder or murder while a felony was committed;
4. while sentenced to life imprisonment;
5. someone that he or she kidnapped;
6. while committing 1st degree sexual assault;
7. two or more people at the same time or in the course of a single transaction; or
8. a person under age 16.

Presentence Investigation Report

The law requires a presentence investigation for anyone convicted of a felony for the first time in Connecticut. The court may request it for any crime or offense other than a capital felony or murder with special circumstances. Probation officers prepare the report, which includes information on the circumstances of the offense; the victim's attitude; and the defendant's criminal record, social history, and present condition.

Related Bill

SB 796, favorably reported by the Judiciary Committee, contains the same provisions except for those:

1. requiring sentencing judges to state a defendant's maximum prison sentence, earliest parole eligibility date, and the number of credits he or she may earn to reduce the sentence;
2. requiring prosecutors to include maximum sentence and parole eligibility information when describing plea agreements to victims; and
3. prohibiting someone convicted of 1st degree manslaughter or 1st degree manslaughter with a firearm from earning risk reduction

earned credits.

SB 796 also applies the factors the sentencing court must consider to cases involving juveniles convicted of a class C felony.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable

Yea 41 Nay 1 (03/27/2015)